

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARC THOMIS, and)	
CHARLES ROBERTS)	
Plaintiffs)	
)	
v.)	CIVIL ACTION No.: 1:05-cv-11812-WGY
)	
BRAZIL AMAZON TRADING, INC.,)	
BRAZIL AMAZON RESOURCES, INC.,)	
BRUNILDA OBUHOSKY, individually)	
Defendants)	
)	

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO STAY COMPLAINT
AND TO COMPEL ARBITRATION

The Plaintiffs, Marc Thomis and Charles Roberts, move pursuant to Local Rule 83.5.2 (b) and (d), Local Rule 7.1(a)(2), and on public policy grounds, for an Order denying the Defendants' Motion to Stay the Complaint and to Compel Arbitration.

In support of their Opposition to the Defendants' Motion, the Plaintiffs state that:

- 1) the Defendant Corporations have failed to retain the services of an attorney, in violation of Local Rule 83.5.2(d), which states that the court will not recognize the appearance of a firm or professional corporation unless it is accompanied by the appearance of at least one (1) attorney.
- 2) The Defendant Obuhosky has failed to state whether she is appearing pro se in her initial filing, in violation of Local Rule 83.5.2(b).

3) The Defendant Obuhosky has failed to certify that she has conferred and attempted in good faith to resolve or narrow the issue, in violation of Local Rule 7.1(a)(2). The Defendant failed in fact to consult or confer with the undersigned, in violation of Rule 7.1(a)(2).

ARGUMENT

I. THE DEFENDANTS' MOTION TO STAY THE COMPLAINT AND COMPEL ARBITRATION SHOULD BE DENIED BECAUSE OF PROCEDURAL DEFICIENCIES IN THE MOTION, UNDER LOCAL RULES

a) Two corporations are named as Defendants in this matter, Brazil Amazon Trading, Inc., and Brazil Amazon Resources, Inc., in addition to Brunilda Obuhosky, who is named as an individual Defendant. The Defendant Corporations have failed to retain the services of an attorney, in violation of Local Rule 83.5.2(d), which specifically states that the court will not recognize the appearance of a firm or professional corporation unless it is accompanied by the appearance of at least one (1) attorney. It is apparent from Ms. Obuhosky's motion that she purports to represent herself, and to appear on behalf of the above-named corporations. According to information and belief, Ms. Obuhosky is not an attorney licensed to practice in any state of the United States, and is not a member of the District of Massachusetts Bar or any other Federal Bar.

b) Local Rule 83.5.2(b) states that a party who appears pro se shall so state in the initial pleading or other paper filed, and that the words "pro se" shall follow the signature of said party on all papers subsequently filed by that party in the case.

The Defendant Obuhosky has failed to state that she appears pro se in her initial filing, in violation of Local Rule 83.5.2(b).

c) The Defendant Obuhosky has failed to certify that she has conferred and attempted in good faith to resolve or narrow the issue, in violation of Local Rule 7.1(a)(2). At no time has the undersigned received any communication, written or oral, from Ms. Obuhosky, or from counsel acting on her behalf, since the filing of the Complaint in this matter. [See Affidavit of Plaintiff's Counsel, attached hereto as Exhibit A].

CONCLUSION

For the reasons stated above, the Defendant's Motion to Stay the Complaint and Compel Arbitration should be denied.

A proposed form of order is attached hereto.

Plaintiffs Marc Thomis and Charles Roberts
By their attorney,



Richard Thomas Davies, Esq.
BBO # 656609
BUTTERALL & GREENE, LLC
2048 Washington Street
Hanover, Massachusetts 02339
(781) 681-7000

CERTIFICATE OF SERVICE

I, Richard Thomas Davies, hereby certify that on October 12, 2005, I served the within Plaintiffs' Opposition to the Defendants' Motion to Stay and Compel Arbitration, by causing a copy to be mailed by first class mail postage prepaid to Brunilda Obuhosky, 337 W. Citrus Street, Altamonte Springs, FL 32714.



Richard Thomas Davies

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)

AFFIDAVIT OF RICHARD THOMAS DAVIES

1. I, Richard Thomas Davies, am an attorney of good standing licensed to practice in the Commonwealth of Massachusetts. I am admitted to practice before the United States District Court for the District of Massachusetts. My BBO # is 656609.
2. At no time prior to the Defendant Brunilda Obuhosky's filing and service of the Defendants' Motion to Stay and to Compel Arbitration did Ms. Obuhosky or any counsel acting on Ms. Obuhosky's behalf communicate with me in writing or orally in a good faith attempt to confer and to resolve or narrow the issue pertaining to her motion.

Signed under the pains and penalties of perjury this 12th day of October, 2005.


Richard Thomas Davies, Esq.